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Attorney For Defendant GREGORIO GUTIERREZ-MONTES

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

UNITED STATES OF AMERICA,

No. CR 11-467-10 MO

Plaintiff,

vs.

GREGORIO GUTIERREZ-MONTES, et al.,

Defendants.

**DEFENDANT GUTIERREZ-MONTES' MOTION TO REQUIRE GOVERNMENT TO PRODUCE ALL REPORTS SHOWING USE OF CELL SITE LOCATION INFORMATION AND VEHICLE TRACKING**

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COMES NOW Defendant Gregorio Gutierrez-Montes, through his attorney Robert W. Reid, and hereby moves the Court to require the government to produce all reports, notes or other memorandum showing its use, at any time in the course of the investigation leading to the indictment in this case, of cell site location information (CSLI) (also known as "precision location data") and vehicle tracking.

**BASIS FOR MOTION**

The defense has filed *Defendant Gutierrez-Montes' Motion To Suppress Fruits Of Wiretap Interceptions*. One of the arguments in that motion was that *Application For Order Authorizing Interception of Wire Communications* (Target Cellphone A), dated

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October 17, 2011 [*Application*] was facially invalid for failing to set forth a “full and complete statement” in setting forth the details of the particular offense, and in showing Necessity, both as required by Title 18 United States Code §2518(1)(b), (c).

The defense noted in that motion that, while reference in discovery reports is made multiple times to the use of cell site location information (CSLI) and vehicle tracking, the government has apparently not provided all of its reports showing when, where, and how these devices were employed nor which cellphones and vehicles were targeted.<sup>1</sup>

While the defendant’s claim that the *Application* was facially insufficient does not depend upon these reports, the reports will show the extent to which the government failed in its Necessity showing, as neither CSLI nor vehicle tracking were discussed in the Necessity showing portion of the *Application*. Once provided, the defense will be able to, if appropriate, file an additional challenge to the lack of factual sufficiency of the claimed Necessity showing, which is a different matter than facial invalidity of the *Application*.

\* \* \* \* \*

RESPECTFULLY SUBMITTED this 14<sup>th</sup> of June, 2012.

**/s/ Robert Reid (intended as original on electronic filings)**

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Robert Reid (OSB #81434)  
Attorney for Defendant Gutierrez-Montes

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<sup>1</sup> It further appears from discovery that the government’s use of tracking devices on automobiles was, at least until October 17, 2011, in violation of the requirements of United States v. Jones, \_\_ U.S. \_\_, 132 S.Ct. 945 (2012). Moreover, much if not most of its CSLI was obtained without the constitutionally required showing of probable cause. *See: Defendant Gutierrez-Montes’ Motion To Suppress Acquisition And Use Of Cellphone Site Location Information.*